

## TEGL 04-00 Attachment 4

### Welfare to Work and WIA

The Workforce Investment Act of 1998, (WIA), which became fully effective July 1, 2000, mandates the formation of Local “Workforce Investment Boards” (Local Boards) to administer programs within a specific local area and to oversee a One-Stop service delivery system designed to provide quality information and services for customers. The following key questions have been posed regarding the impact of WIA legislation on WtW program operations.

#### **1. Q. Is the Local Workforce Investment Board (Local Board) the successor entity to the Private Industry Council (PIC)?**

A. Yes. The Local Board will assume the role previously held by the PIC as the administrative entity for Welfare-to-Work (WtW). (Section 403(5)(D)(ii) of the Social Security Act was amended in October 1998 to expand the definition of “private industry council” to read as follows: “private industry council” means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to the Job Training Partnership Act, (JTPA), or title I of the Workforce Investment Act of 1998, as appropriate.” (Pub. L. 105-277)). This change in the WtW authorizing legislation makes it clear that local workforce investment boards (local boards) are intended as successor entities to PICs for purposes of the WtW program. WIA authorized the creation of Local Boards in Section 117. JTPA which authorized the establishment of PICs is no longer in effect after July 1, 2000.

#### **2. Q. How will WtW fit into the local workforce investment system?**

A. 20 CFR 662.200-662.220 of the WIA Final Regulations lists the entities which serve as partners in the One-Stop system. Under WIA, all WtW formula and competitive grantees, including Local Boards, are required partners in the One-Stop service delivery system. Title I of WIA and its regulations require a Memorandum of Understanding (MOU) between each partner and the Local Board. MOUs must include information about what services each partner will provide, including coordination of referrals and use of resources. Information on the responsibilities of One-Stop partners, including specific information on MOUs, may be found in 20 CFR part 662. Technical assistance and samples of MOUs may be found at <http://www.usworkforce.org>.

While the relationship between the WtW competitive grantees and the Local Boards may not be as formal as that of the WtW formula grantee, which in most cases will also be administratively responsible for WIA funding, all WtW grantees are considered to be covered by the provisions of 20 CFR part 662 of the WIA regulations. Under 20 CFR 661.315 and 661.317, the chief elected

official must appoint to the Local Board at least one member who represents the WtW program, and may solicit nominations for that member from grantees in the local area. A partnership with the local One Stop system can enhance participant services, so competitive grantees should craft cooperative arrangements with the Local Board to maximize support for all participants.

**3. Q. If PICs were providing WtW services directly to participants, can the Local Boards (former PICs) do so under WIA and under WtW?**

A. Under WIA, one of the key reform principles is focusing local, business-led workforce investment boards on strategic planning and oversight. As a result, Local Boards may only provide core and intensive services under title I of WIA with the agreement of the chief elected official and the Governor. Local Boards may only provide training services funded by title I of WIA if they obtain a waiver from the Governor. Details on these restrictions are outlined in section 117(f) of WIA and 20 CFR 661.310. The Question and Answers page at <http://usworkforce.org/asp/qanda.asp> provides general information on PICs and their transition to Local Boards under WIA.

Under WtW, Local Boards are required to provide job readiness, job placement and post-employment services through contracts and vouchers. While the WtW 1999 Amendments, signed by the President on November 29, 1999, permit grantees that are not Local Boards to provide these services directly, the prohibition on providing these specific services directly still exists for Local Boards. The WtW law and regulations permit Local Boards to provide other WtW services directly (such as outreach, recruitment, assessment, employment activities and job retention/support services), although the Department encourages Local Boards to focus on their strategic planning and oversight responsibilities as described under WIA.

In some cases, PICs were providing prohibited services directly under WtW due to a misinterpretation of a policy clarification issued by the Department. We expect to clarify this policy in new interim final regulations implementing the WtW 1999 Amendments. We do not intend to sanction PICs or Local Boards which relied on a prior misinterpretation of this policy, provided that they have come into compliance with the law and regulation on this issue as we specify in the final regulations, when published.

**4. Q. Does the agreement with the WtW State administrative entity have to be modified as a result of a former PIC's transition into a Local Board?**

A. Yes. Some form of a transaction will have to occur to transfer fiscal authority and liability for WtW grant funds. This will ensure that the State formula grant remains in compliance with the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," codified in the DOL regulations at 29 CFR part 97. These requirements to ensure the sound management of Federal funds are incorporated by reference in both WtW and WIA regulations. However, it is up to each State to determine the nature and extent of the required modifications to local agreements. In some cases this modification may only consist of

changing the name of the local entity. In other cases, where substantial changes are taking place in the mode of service delivery, a more extensive modification is likely to be required by the State.

If there is no change in geography, the State should arrange for or facilitate “novation agreements” (See Federal Acquisition Regulation at 48 CFR Subpart 42.12) between the outgoing PIC and the Local Board taking its place. This agreement establishes that all parties are in agreement with the terms and will allow the new entity (the Local Board) to administer the WtW funds as the successor entity.

**5. Q. What procedure should be followed if a local workforce investment area’s geographic configuration under WIA is different from the service delivery area (SDA) configuration under JTPA?**

A. If the local geographic configurations change as WIA is implemented, the State entity that administers the WtW grant must ensure that funds are appropriately redistributed among local workforce investment areas. Based on the elements in the State’s distribution formula outlined in the WtW State Formula Plan, the State will determine what, if any, adjustments to local area allocations are necessary. States should reapply their original WtW formula to the new areas, based on the data used at the time of the initial allocation, if possible. Adjustments, to the extent needed, should be made only out of funds that are unexpended or unobligated at the local level.

**6. Q. Does the approved WtW State formula plan require modification in order to reflect this geographical change?**

A. Yes. If the geographic configurations and WtW formula allocations are different than those provided by the State in the approved FY 98 and/or FY 99 WtW formula plan, then the State must submit a modification to the Department of Labor. The modification must identify the newly designated local workforce investment areas and the adjusted amount of WtW funds allocated to those areas. The State must submit this modification to the WtW State Plan as soon as possible after either the new local workforce investment area is designated or upon ETA's approval of the WIA State plan.

**7. Q. If the State does not have a WtW formula grant, can competitive grantees represent the WtW program on the State Board?**

A. Yes. WIA requires the representation of each One-Stop partner program on the State Workforce Investment Board by the lead State agency official with responsibility for the partner program. Where no lead State agency is responsible for a partner program, the partner program is represented by a person with expertise relating to the partner program. For WtW, an official from a competitive grantee may be designated as the representative with expertise relating to WtW, although the Governor may choose to designate some other representative.

**8. Q. Are WtW competitive grantees required partners in the local One-Stop delivery system and are they be required to enter into a MOU?**

A. Yes. The WtW program, including all WtW formula and competitive grantees, is a partner program in the local One-Stop delivery system. Under 20 CFR 661.315 and 661.317, the chief elected official must appoint to the Local Board at least one member who represents the WtW program. The WIA regulations, at 20 CFR 662.230 and 662.300, require a MOU between each partner and the Local Board outlining what services each will provide, including coordination of referrals and use of resources for services and operating costs of the system.

**9. Q. If there is more than one WtW competitive grantees in a local area, do there have to be separate Local Board members appointed to represent each grantee?**

A. No. The CEO must appoint a representative for each One-Stop partner program in the local area, but one representative may represent multiple grantees of a partner program. The CEO may also select more than one representative. For example, the CEO may appoint a representative from multiple grantees of the same program to facilitate more effective representation of the program on the Local Board.

**10. Q. Since competitive grantees which are Local Boards (formerly PICs) must contract out most WtW services, will the transition to WIA require a modification to the competitive grant document?**

A. The WtW requirement that a Local Board must contract out certain WtW services does not necessarily change a competitive grantee's scope of work, as originally funded. If it was not clearly specified in the original grant document how services were going to be provided (directly or through subrecipients), then a change in the mode of service delivery may not require a modification to the grant document. If a change in the mode of service delivery significantly affects the grant's scope of work, however, then a modification would be necessary. Lack of clarity in the grant document does not relieve a competitive grantee which is a Local Board from the requirements of the WtW statute - providing job readiness, job placement and post-employment services through contracts or vouchers.

If a Local Board has a WtW competitive grant and is providing services in compliance with WtW, but WIA requires them to make other changes in their mode of service delivery, the same standard would apply. A modification would be necessary if the changes in service delivery are different than those expressly stated in the WtW competitive grant document.

**Fiscal WtW/WIA Questions and Answers:**

**1. Q. When a PIC phases out, how are funds transferred to the Local Board? Does the**

**change take place when the geographic configurations for the local workforce investment areas change?**

A. If the geographic areas are the same for the WIA local area and the JTPA service delivery area, the parties may enter into a “novation agreement” which, in essence, establishes that all parties are in agreement and transfers funds and the responsibility and liability for those funds over to the new administrative entity (See Federal Acquisition Regulation at 48 CFR Subpart 42.12). If the geographic areas change when the Local Board is established, the State is responsible for redistributing funds on an equitable basis, using the elements in the State’s distribution formula outlined in the WtW State Formula Plan, to ensure that the appropriate funding amounts are available to each local area after transformation to WIA.